

# Overview of the Electronic Trust Services Market

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The Law of Ukraine “On Electronic Trust Services”<sup>1</sup> (“the Law”) implementing the European eIDAS Regulation<sup>2</sup> has been adopted in 2018.

## Market Situation

The Ministry of Digital Transformation of Ukraine is the central executive authority, which ensures the development and implementation of the state policy in the electronic trust services domain and acts as the central certification authority.

The administrator of the central certification authority's information and telecommunication system is Diya, a state-owned enterprise reporting to the Ministry of Digital Transformation. It ensures technical and technological support of the functions of the said central certification authority.

Currently, 15 state-owned and 10 private organisations render trust services on the Ukrainian market. Thus, state-owned qualified electronic trust service providers dominate the market.

Now, about 7.8 million certificates are active in Ukraine.

This is about 18.5% of the Ukrainian population (assuming one certificate per person), or 33% if we do not include minors under 17 (according to the State Statistics Service, there are 41.98 million people in Ukraine, of which 7.58 million are minors under 17).

Also, eID (identifiers) are now being used in Ukraine. The eID system integrates all eID service providers: e-signature, BankID, MobileID.

The Law adopted in 2018 has some discrepancies with the eIDAS Regulation, which should be cleared if Ukraine wishes to join the EU Single Digital Market.

EU and Ukraine have reviewed the legal basis for an international treaty allowing Ukraine to join the pan-European system of cross-border electronic identification and authentication. They agreed that such a treaty should be concluded before the markets open. Note, in particular, that many provisions in the eIDAS Regulation and other EU laws and regulations (e.g. the internal market principle, mutual recognition, notifications on electronic identification schemes) will only become relevant and enforceable after the signing of the above-mentioned international treaty.

Both European and Ukrainian experts noted consistently that the eIDAS Regulation explicitly states the necessity to ensure an adequate level of personal data protection. As soon as Ukraine enters into a relevant international treaty with the

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<sup>1</sup> <https://zakon.rada.gov.ua/laws/show/2155-19#Text>

<sup>2</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2014.257.01.0073.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2014.257.01.0073.01.ENG)

EU and becomes part of a pan-European system of electronic trust services, it should ensure that the GDPR has been implemented and enforced.

Since the adoption of the Law, Ukraine has had ambitious plans to integrate into the EU Single Digital Market. In early 2021, a new plan to update Ukraine's legal framework was approved.<sup>3</sup>

The EU has not stood still either. During the life of the eIDAS regulation, as is usually the case with regulations, certain issues have become known that require adjustment.

Following the 22nd Ukraine-EU Summit arrangements, the Ukrainian and EU parties developed (and in January 2021 agreed) a joint action plan for cooperation between the European Union and Ukraine in the electronic trust services domain to prepare an eventual treaty based on the approximation to EU legislation and standards (EU Delegation to Ukraine letter of 20 January 2021). Section 9 of the above joint action plan envisages the adoption of amendments to the Law of Ukraine on Electronic Trust Services by 1 January 2022.

In conclusion, we suggest moving forward without waiting for the eIDAS regulation update. The process of the respective law drafting for submission to the Verkhovna Rada of Ukraine should comprise scrutiny for compliance with the suggested changes and additional consultations with the EU, as the same circumstances will arise at least three times, because the NIS Directive, Directive 114, and the Directive related on information society services provision are going to be updated. Note that Ukraine as a non-EU country cannot adopt and apply Regulations in the same way as EU countries, so the specific issue of Regulations implementation should be resolved. Eventually, the EU will elaborate a common stance and rules for non-EU countries having association agreements. This will help the Ukrainian dream of joining at least the digital EU to come true.

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<sup>3</sup> <https://thedigital.gov.ua/projects/yevrointegraciya>